



CALIFORNIA STATE BOARD OF EDUCATION

SEPTEMBER 2004 AGENDA

☒ Specific Waiver

SUBJECT

Request by **three school districts** for a retroactive waiver of *Education Code* (EC) Section 60119 regarding the Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2002-2003 that they 1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing and/or 3) failed to post the notice in the required three public places.

Waiver Number: 11-6-2004 – **Oak Park Unified School District**
Waiver Number: 14-6-2004 – **Kit Carson Union School District**
Waiver Number: 16-6-2004 – **Los Altos School District**

☒ **Action**

☐ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has heard and approved a Waiver Policy number 01-06 Instructional Materials Sufficiency (*Education Code* Section 60119) Waiver of Retroactive Audit. None of these local educational agencies (LEAs) have had a prior year finding and waiver of this type, so this goes to consent.

SUMMARY OF KEY ISSUES

During audits for fiscal year 2002-2003, it was discovered that the above LEAs did not hold the public hearings notice of sufficiency of instructional materials, or post the notice for ten days prior to the public hearing or post the required notice in three public places as required by EC Section 60119.

Since then, each LEA has held a fully compliant hearing and determined that it has sufficient instructional materials for each pupil in each school in the district. California Department of Education (CDE) staff verified all other requirements of the Specific Waiver request and none of the LEAs has had a previous waiver of this *Education Code* for the public hearing and ten day notice requirements and/or post the notice in three public places in the 1997-98, 1998-99, 1999-00, 2000-01, or 2001-02 years. Without the waiver, the local educational agencies will have to return \$344,850 to CDE. See attached specifics for each LEA.

Therefore, since the LEA have met the requirements for fiscal year 2003-2004, and agrees to comply with EC section 60119 and ensure that the public hearing is held, noticed to the public hearing for ten days, and in three public places, CDE recommends approval of this waiver request.

Authority for the Waiver: EC section 41344.3

Period of request: July 1, 2002 to June 30, 2003

Local board approval date(s): various dates – see waivers

Bargaining unit(s) consulted on date(s): various dates – see waivers

Name of bargaining unit(s)/representative(s): various – see waivers

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose

Comments (if appropriate):

FISCAL ANALYSIS (AS APPROPRIATE)

July 1, 2004 to June 30, 2005

BACKGROUND INFORMATION

Action Item: Some documentation is available for web viewing. Waiver forms and other hard copy documents are available for viewing at the Waiver Office or State Board Office.

Failure to Hold the Public Hearing, and Complete a Local Board Resolution on the Sufficiency of Textbooks and Instructional Materials (within the 2002-2003 fiscal year)

Waiver Number: 11-6-2004 – Oak Park Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$156,012 in Instructional Materials funds.
- Due to mid-year personnel changes in the district office, the public hearing for the sufficiency of instructional materials was not held in fiscal year 2002-2003 in accordance with EC section 60119.
- The district held a fully compliant public hearing on September 19, 2003 that met the requirements of EC section 60119. Following the recommendation of the auditors, the district has established a list of all annually required board items including this annual requirement.
- CDE staff verified all other requirements of the Specific Waiver request.

Failure to Give Ten days Notice of the Public Hearing on the Sufficiency of Textbooks and Instructional Materials (within the 2002-2003 fiscal year)

Waiver Number: 14-6-2004 – Kit Carson Union School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$16,500 in Instructional Materials funds.
- The district did not post the public notice for ten days as required by EC

Section 60119 because the new business manager was inexperienced and did not know of the ten day posting requirement. This business manager has left the district and been replaced by a more experienced person. A sample resolution form has sent to the district for future use that complies closely with the wording of the statute to ensure greater compliance with the requirements.

- A fully compliant public hearing was held on June 19, 2004 that met the requirements of EC section 60119. The district has changed their procedures to ensure that the public notices for this hearing will be posted for ten days in the future.
- CDE staff verified all other requirements of the Specific Waiver request.

Waiver Number: 16-6-2004 – Los Altos School District

- Audit finding for the 2002-2003 fiscal year that would require the return of \$172,338 in Instructional Materials funds.
- The district did not post the public notice for ten days as required by EC Section 60119, instead the district posted the notice for only three days. The mistake occurred because of a new assistant superintendent that was not aware of the ten-day posting requirement. Additionally, a sample resolution has been sent to the district so that in 2004-2005, their resolution will more strictly adhere to the 60119 requirements.
- A fully compliant public hearing was held on May 17, 2004 that met the requirements of EC section 60119. The district has changed their procedures to ensure that the public notices for this hearing will be posted for ten days in the future.
- CDE staff verified all other requirements of the Specific Waiver request.